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5 Attorneys for  
ECCO Equipment Corporation

11 UNITED STATES, For the Use of )  
12 ECCO EQUIPMENT CORPORATION, ) Civil Action Files  
13 Plaintiff, ) No. C 07-01568 SI  
14 vs. ) and No. C 07-04929 SI  
15 CENTRAL VALLEY CONSTRUCTION, INC.; )  
16 CKY, INC., TPA, INC., AMERICAN ) FURTHER JOINT STATUS  
17 CONTRACTORS INDEMNITY COMPANY, and ) CONFERENCE STATEMENT  
18 DOES 1-20, ) Date: July 18, 2008  
19 Defendants. ) Dept: 10  
20 ) Time: 2:30 p.m.  
21 )  
22 )  
23 CENTRAL VALLEY CONSTRUCTION, INC., )  
24 Cross-Claimant, )  
25 vs. )  
26 TPA-CKY JOINT VENTURE, )  
27 Counterdefendant. )  
28 )  
29 TPA-CKY JOINT VENTURE, )  
30 )  
31 Counterclaimant, )  
32 vs. )  
33 )  
34 CENTRAL VALLEY CONSTRUCTION, INC., )  
35 a California corporation; PHILLIP )  
36 VALLEJO, an individual; GENE ARNAIZ, )  
37 an individual; and JOES 1 through )

NATHAN D. IDE  
ATTORNEY AT LAW  
VISALIA, CA

1       10, inclusive, )  
 2                          ) )  
 2       Counterdefendants. ) )  
 3                          ) )  
**AND RELATED ACTION:** ) )  
 4                          ) )  
 5       UNITED STATES OF AMERICA, For the ) )  
 6       Use and Benefit of RENTAL SOLUTIONS, ) )  
 6       LLC, ) )  
 6                  Plaintiff, ) )  
 7       vs. ) )  
 8       CENTRAL VALLEY CONSTRUCTION, INC., ) )  
 9       TPA-CKY JOINT VENTURE, CKY, INC., ) )  
 9       TAN PHUNG & ASSOCIATES, AMERICAN ) )  
 10      CONTRACTORS INDEMNITY COMPANY, ) )  
 10      and DOES 1-20, inclusive, ) )  
 11                  Defendants. ) )  
 12                          

13                          1. Jurisdiction and Service: The Court's subject matter  
 14 jurisdiction over plaintiffs' claims is pursuant to the Miller Act  
 14 (40 U.S.C. Sections 3131 and 3133).  
 15

16                          All parties named by plaintiffs in both matters have  
 17 been served or have appeared. All cross-defendants have been  
 17 served and appeared. All Cross-Complaints have been filed  
 18 against the individual defendants.  
 19

20                          2. Facts: Plaintiff ECCO EQUIPMENT CORPORATION  
 21 ("ECCO") and RENTAL SOLUTIONS ("RENTAL") provided heavy equipment  
 22 to CENTRAL VALLEY CONSTRUCTION ("CVC") on a federal work of  
 22 improvement. Plaintiffs contend they have not been paid for  
 23 these rentals. CVC contends in both cases that its payments have  
 24 not been properly credited and that some of the equipment was not  
 25 used on the project.  
 26

The general contractor on the project was defendant

1 TPA-CKY JOINT VENTURE, which was a joint venture formed by  
 2 defendant CKY INC. and TAN PHUNG & ASSOCIATES. The TPA-CKY  
 3 JOINT VENTURE has sued defendant CVC for indemnity and breach of  
 4 contract, and CVC has sued the TPA-CKY JOINT VENTURE for breach  
 5 of contract. Plaintiffs ECCO and RENTAL believe these will be  
 6 the major issues litigated in both matters.

7           3. Legal Issues: Defendants contend that both  
 8 Plaintiffs' 90-day Notices under the Miller Act were defective,  
 9 and were not sufficient to cover all of the rentals provided.

10           4. Motions: Plaintiffs ECCO and RENTAL do not  
 11 anticipate filing a dispositive motion, as the parties dispute  
 12 certain credits. Counter-defendant PHILLIP VALLEJO anticipates  
 13 filing a dispositive motion regarding his individual liability.

14           5. Amendment of Pleadings: Plaintiff ECCO filed an  
 15 amended complaint changing the names of the joint venture  
 16 defendants to their proper designations. CVC has filed a cross-  
 17 claim against the TPA-CKY JOINT VENTURE and the TPA-CKY JOINT  
 18 VENTURE has filed a counter-claim naming CVC and its individual  
 19 owners.

20           6. Evidence Preservation: There are no evidence  
 21 preservation issues as all of the subject invoices are retained  
 22 in the normal course of business.

23           7. Disclosures: Plaintiffs ECCO and RENTAL complied  
 24 with their Rule 26 disclosures. Plaintiffs believe all Rule 26  
 25 disclosures have been made.

26

8. Discovery: Written discovery requests have been

1 exchanged, and documents have been produced by the parties in the  
2 ECCO matter. Four motions to compel have been filed by the TPA-  
3 CKY JOINT VENTURE against CVC and ANTHONY ARNAIZ, regarding the  
4 alter ego allegations made against the individual owners of CVC.  
5 The hearing on these motions is set for July 18, 2008. The  
6 current Case Management Order provides for a discovery cutoff of  
7 August 29, 2008 for the ECCO matter. However, new attorneys have  
8 recently substituted in as counsel for Phillip Vallejo and  
9 Anthony Arnaiz. As a result, the parties have only recently  
10 agreed to a mediation date of August 28, 2008, which is only one  
11 day before the currently scheduled discovery cutoff. The parties  
12 would like to avoid the time and expense of taking numerous  
13 depositions before the mediation, and to do so, request that the  
14 court move back the discovery cutoff date by a period of 60 to 90  
15 days.

16       9. Class Actions: This is not a class action lawsuit.

17       10. Related Cases: The Court ordered case number C-07-4929  
18 MHP (SI), Rental Solutions, LLC v. Central Valley Construction,  
19 et al, related.

21       11. Relief: Plaintiff ECCO is seeking damages in the amount  
22 of \$347,535.76, which is for all rental charges and interest  
23 related to the heavy equipment provided to Defendants.

24       Plaintiff RENTAL is seeking damages in the amount of  
25 \$41,629.75 in its matter

26

1       Defendant TPA-CKY JOINT VENTURE has filed a counter claim  
2 against CVC for approximately \$500,000.00 related to its  
3 performance on the project and has named the individual owners of  
4 the corporation on an alter-ego theory.

5       Defendant CVC has filed a cross claim against TPA-CKY JOINT  
6 VENTURE for approximately \$900,000.00 it claims it is owed on the  
7 project.

8       12. Settlement and ADR: The parties have agreed upon  
9 mediation. Mediation is scheduled for August 28, 2008, with  
10 Ernest C. Brown. In addition, a settlement agreement has been  
11 entered into in the Rental Solutions case between RENTAL, CVC and  
12 the TPA-CKY JOINT VENTURE. The TPA-CKY JOINT VENTURE has  
13 performed its obligations under the agreement, in the Rental  
14 Solutions case, but CVC has not performed its obligations  
15 thereunder.

16       13. Consent to Magistrate Judge for All Purposes:

17       Plaintiff RENTAL did not consent to a magistrate judge in  
18 its matter.

20       14. Other References: None.

21       15. Narrowing of Issues: The issues in this matter are  
22 narrow as to ECCO and RENTAL. Plaintiffs must prove the total  
23 amount of their invoices. Defendants must prove the amount of  
24 their alleged credits. Defendants must also litigate their legal  
25 defense of lack of proper 90-day notice.

26

1       As to the other defendants, the issues are more complex,  
2 involving performance on the project by the parties, as well as  
3 an accounting of monies allegedly advanced by TPA-CKY on behalf  
4 of CVC. TPA-CKY is also attempting to pierce the corporate veil  
5 as to the individual owners of CVC. These issues will be the  
6 bulk of trial in this matter.

7       16. Scheduling:

8       The Current schedule, with proposed changes, is as follows:

9           a) Designation of Experts: Sept. 12, 2008;

10                  No proposed changes.

11           b) Counter Designation of Experts: Sept. 26, 2008;

12                  No proposed changes.

13           c) Discovery cutoff: August 29, 2008 (other than  
14 designation of experts);

15                  No proposed changes.

16           d) Pretrial Disclosures: 30 days before trial.

17           e) Hearing of dispositive motions: September 26, 2008.

18           f) Pretrial conference and trial: Trial is scheduled  
19 for November 10, 2008. The pretrial conference is October 28,  
20 2008.

21       As indicated in Paragraph 8 above, the introduction of  
22 new counsel for Phillip Vallejo and Anthony Arnaiz, and the  
23 scheduling of the mediation of these cases on August 28, 2008  
24 suggest that a 60 to 90 day continuance of the discovery cutoff

1 date and the other dates associated therewith would be prudent,  
2 including the trial date, so that the parties can engage in  
3 meaningful settlement negotiations without having to incur the  
4 time and expense of completing all non-expert discovery prior to  
5 the scheduled date of the mediation.

6           17. Trial: The case is set for a Jury trial.  
7 Plaintiff ECCO believes its case should take two days. RENTAL  
8 believes its case will take two days. Defendants' claims should  
9 take significantly longer, and trial is currently set for 5 days  
10 total.

11  
12 Dated: July \_\_\_, 2008

/s/  
13 Nathan D. Ide,  
14 Attorney for Use Plaintiff  
15 ECCO EQUIPMENT CORPORATION

16 Dated: July \_\_\_, 2008

GANZER & WILLIAMS

17 By: /s/  
18 James E. Ganzer,  
19 Attorneys for Defendant  
20 CENTRAL VALLEY CONSTRUCTION,  
21 INC.

22 MUSICK, PEELER & GARRETT LLP

23 Dated: July \_\_\_, 2008

24 By: /s/  
25 Jack W. Fleming,  
26 Attorney for Defendants,  
CKY, INC., TPA-CKY JOINT  
VENTURE, AMERICAN CONTRACTORS  
INDEMNITY COMPANY

1  
2  
3 Dated: July \_\_\_, 2008

/s/  
Jennifer K. Whipple,  
Attorney for Defendant,  
PHILLIP VALLEJO

4  
5  
6  
7 Dated: July \_\_\_, 2008

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Michael F. Babitzke  
Attorney for Defendant,  
TONY ARNAIZ

8  
9  
10  
11 Dated: July \_\_\_, 2008

/s/  
Stan D. Blyth, Esq.  
Attorneys for Plaintiff  
RENTAL SOLUTIONS